

## REMARKS

### **Amendments to the specification**

The text introduced into the specification at pages 6 and 9 by amendment as set forth herein is fully supported by the specification as filed and by the sequence listing as filed. It is believed that these amendments do not add new matter.

### **Amendments to the Claims**

The amendments to the claims are believed to be fully supported by the specification as filed and do not introduce new matter. Reference to corn rootworm is found throughout the specification. Reference to monocot is found at least at page 15, lines 23-25.

### **Election/Restriction**

The Applicant maintains the earlier filed traverse of the requirement for electing a single sequence for prosecution in the instant claims. It is believed that the Examiner has based his/her arguments on a misunderstanding of parts of the specification as filed. For example, the Examiner has chosen to rely on a statement from page 38, line 14-16, in asserting that the sequences are not capable of use together and that each sequence has a different function and/or effect. The Examiner misunderstands the context in which the statement at page 38, lines 14-16 refers, and misunderstands entirely the statement made at that page of the specification. The specification at that page and section is discussing the utility of the use of patatins as insecticidal agents along with other insecticidal proteins or agents that effect their insecticidal activity through a mode of action that is different than the mode of action exhibited by a patatin protein. The Examiner seems to have understood the statement to indicate that the “[p]atatins afford different gene products for control of insect pests with different mode of action.” The Examiner has taken this out of context. The full sentence at page 38, lines 14-16 indicates that, paraphrasing, patatins provide a different mode of action for controlling insects *that can be combined with Bt delta-endotoxins to provide insect resistance management*. As the Examiner has misunderstood the specification, it is respectfully requested that the Examiner reconsider the requirement to limit the claims to a single sequence.

### **Sequence Rules**

It is believed that each and every instance of recitation in the specification of a sequence that is at least four (4) amino acids or ten (10) nucleotides has been properly included as a SEQ ID NO in the sequence listing. For example, the Examiner has indicated that sequences at page 9, lines 13-14 and page

38, lines 22-23 are not specifically included in the sequence listing and not properly referred to by SEQ ID NO in the specification. The Examiner seems to be specifically referring to the sequences Gly – Xxx – Ser – Xxx – Gly (SEQ ID NO:14) and Glu-Xxx-Xxx-Leu-Val-Asp-Gly (SEQ ID NO:15). It is believed that the Applicant has properly referred to these sequences as indicated herein respectively, SEQ ID NO:14 and SEQ ID NO:15, which were included on the paper copy of the sequence listing and the computer readable form. Therefore, no additional sequences have been added to the specification or sequence listing in supplemental paper copy or CRF with this response. It is requested that the Examiner acknowledge that these sequences have been included appropriately. As to identification of the sequences by SEQ ID NO in the specification, it is believed that the amendments to the specification at page 6, lines 9-10, lines 16-17, and lines 26-27 and page 9, lines 13-14 are sufficient to meet the requirements of 37CFR§§1.821-1.825. Therefore, it is respectfully requested that the Examiner acknowledge that these amendments are sufficient to meet the requirements of the Sequence Rules.

### **Claim Objections**

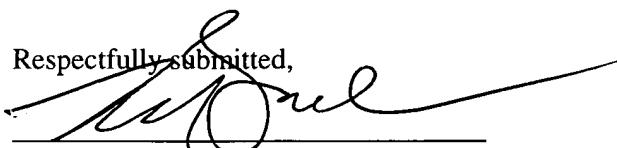
It is believed that the objection has been obviated in view of the amendments to the claims. It is respectfully requested that the Examiner remove this grounds of objection..

### **Claim Rejections: 35 USC §112, first paragraph**

It is believed that the amendments to the claims has obviated the Examiner's rejection of the claims under 35 USC §112, first paragraph. It is respectfully requested that the Examiner remove this grounds of rejection.

It is respectfully requested that the Examiner find the claims in condition for allowance and an early notification of such is requested. In the event that there are minor corrections or modifications necessary for allowance, or if the Examiner should have any questions, it is respectfully requested that the Examiner contact the undersigned attorney.

Respectfully submitted,

  
Timothy K. Ball, Ph.D., Esq.

USPTO Reg. No. 42,287

Assistant General Counsel, Intellectual Property  
Monsanto Company, E2NA

800 North Lindbergh Blvd.

St Louis, MO 63167

Phone Direct 314 694 5811; FAX 314 694 5311